

REMARKS

Claims 22, 25, 27, and 30 are currently pending in the present application. Claims 22 and 30 are the only claims in independent form.

Claim 22 stands rejected under 35 U.S.C. §102 as being anticipated by the Murata, et al. patent. Reconsideration of the rejection under 35 U.S.C. §102(e), as anticipated by the Murata, et al. patent, as applied to the claims is respectfully requested. Anticipation has always been held to require absolute identity in structure between the claimed structure and a structure disclosed in a single reference.

In Hybritech Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 231 U.S.P.Q. 81 (Fed. Cir. 1986) it was stated: "For prior art to anticipate under §102 it has to meet every element of the claimed invention."

In Richardson v. Suzuki Motor Co., Ltd., 868 F.2d 1226, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989) it was stated: "Every element of the claimed invention must be literally present, arranged as in the claim."

The Office Action holds the instant independent claim recites "a medicine suppository comprising", which is open to valproate and other ingredients. Applicant has amended claim 22 to include closed language, thereby distinguishing over each of the cited references. It is respectfully submitted that no prior art reference discloses a medicine suppository consisting essentially of a medication selected from the group consisting of valproate, sodium valproate, and valproate salts. Since, the Murata, et al. patent does not disclose the suppository without the inclusion of additional compositions, the presently pending independent claim is patentable over the Murata, et al. patent and reconsideration of the rejection is respectfully requested.

Claims 22 and 30 stand rejected under 35 U.S.C. §102 as being anticipated by the Nau, et al. patent. Reconsideration of the rejection under 35 U.S.C. §102(e), as anticipated by the Nau, et al. patent, as applied to the claims is respectfully requested.

Anticipation has always been held to require absolute identity in structure between the claimed structure and a structure disclosed in a single reference.

The Office Action has held that the instant independent claims recite “a medicine suppository comprising”, which is open to valproate and other ingredients. Applicant has amended claim 22 to include closed language, thereby distinguishing over each of the cited references. It is respectfully submitted that no prior art reference discloses a medicine suppository consisting essentially of a medication selected from the group consisting of valproate, sodium valproate, and valproate salts. Since, the Nau, et al. patent does not disclose the suppository without the inclusion of additional compositions, the presently pending independent claim is patentable over the Nau, et al. patent and reconsideration of the rejection is respectfully requested.

Claim 22 stands rejected under 35 U.S.C. §102 as being anticipated by the Crocker, et al. patent. Reconsideration of the rejection under 35 U.S.C. §102(e), as anticipated by the Crocker, et al. patent, as applied to the claims is respectfully requested. Anticipation has always been held to require absolute identity in structure between the claimed structure and a structure disclosed in a single reference.

The Office Action holds the instant independent claim recites “a medicine suppository comprising”, which is open to valproate and other ingredients. Applicant has amended claim 22 to include closed language, thereby distinguishing over each of the cited references. It is respectfully submitted that no prior art reference discloses a medicine suppository consisting essentially of a medication selected from the group consisting of valproate, sodium valproate, and valproate salts. Since, the Crocker, et al. patent does not disclose the suppository without the inclusion of additional compositions, the presently pending independent claim is patentable over the Crocker, et al. patent and reconsideration of the rejection is respectfully requested.

It is respectfully submitted that the present amendment places the application in condition for allowance as it removes all remaining issues in dispute. Specifically, the amendment follows suggestions set forth in the Office Action and clarifies the

present invention. As a result, no remaining issues are in dispute. Since there is no prior art cited against any of these claims, it is respectfully submitted that all of the claims are in condition for allowance. It is also respectfully submitted that the present amendment places the application in condition for appeal. The claims have not been made broader in scope, thereby requiring no further searching nor raise any new issues. In fact, all claims now include limitations of previously pending claims and were therefore previously searched.

It is respectfully requested that the present amendment be entered in order to place the application in condition for allowance or at least in better condition for appeal. The application is placed in condition for allowance as it addresses and resolves each and every issue that remains pending. The claims have also been amended to clearly distinguish them over the prior art. The application is made at least in better condition for appeal as the amendment removes any issues thereby simplifying the issues on appeal. That is, each and every rejection has been overcome. Hence, it is respectfully requested that the amendment be entered.

Applicant respectfully requests to be contacted by telephone if any remaining issues exist.

In summary, the presently claimed invention is in condition for allowance, which allowance is respectfully requested. If any remaining issues exist, Applicant respectfully requests to be contacted by telephone at (248) 539-5050.

The Commissioner is authorized to charge any fee or credit any over-payment in connection with this communication to our Deposit Account No. 11-1449.

Respectfully submitted,
KOHN & ASSOCIATES, PLLC

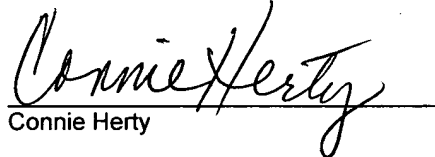


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